

Notice of Allowability

Application No.

10/755,544

Applicant(s)

POUPART ET AL.

Examiner

Art Unit

Michael P. Barker

1626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 1/24/06.
2. ☒ The allowed claim(s) is/are 1-41; 43-44.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>1</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Claims 1-41 and **43-44** are pending in this application. Applicant amended **Claims 1-2, 9, 12-14, 24, 27, and 43**. The restriction requirement put forth July 12, 2005 is hereby withdrawn, and Group II, **Claims 28-32** are rejoined. Furthermore, **Claims 1-41** and **43-44** were found to be free of the prior art and are drawn to allowable subject matter.

Priority

This application, filed January 12, 2004, claims benefit of U.S. Provisional Application No. 60/441,674, filed January 22, 2003.

Examiner's Amendment

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it must be submitted no later than the payment of the issue fee.

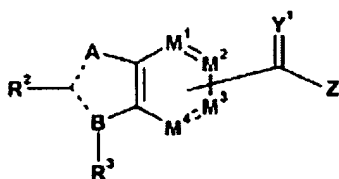
Authorization for this examiner's amendment was given in a telephone interview with David Dow on February 28, 2006. The application has been amended as follows:

1. In **Claim 31**, line 1, p. 17, after the words, "method of treating", delete the words, "or preventing".
2. In **Claim 32**, line 1, p. 17, after the words, "method of treating", delete the words, "or preventing".
3. In **Claim 33**, line 1, p. 17, after the words, "for the treatment", delete the words, "or prevention".

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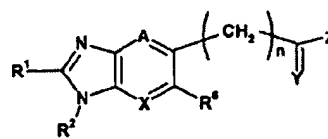
Reasons for Allowance

The present invention relates to compounds of formula I, as well as methods of using



compounds of the general formula:

Virtually no prior art was found claiming any compounds representative of or matching the limitations of the genus of compounds claimed by Applicant. The closest prior art is WIPO Publication No. WO 2002/04425, published January 17, 2002 (hereinafter "Beaulieu, et. al.").



Beaulieu, et al. recites compounds of the general formula:

, which

obviously do not meet the limitations of Applicant's claimed invention. The overlap between Beaulieu, et al. and the instant application is that both inventions are drawn to compounds which are intended to treat or prevent hepatitis C virus infection. However, Beaulieu, et al. has taken a different approach to Applicant's claimed invention. Applicant's claimed invention is drawn to compounds having an indole-core, whereas Beaulieu, et al. is drawn to compounds having other than an indole-core, such as a benzoimidazole-core.

Thus, while Beaulieu, et al., like the instantly claimed invention, also discloses anti-HCV compounds Beaulieu, et al. does not teach or suggest Applicant's instantly claimed invention, nor does it provide motivation to one of ordinary skill in the art to synthesize compounds of the instantly claimed application.

Telephone Inquiry

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael P. Barker whose telephone number is (571) 272-4341. The examiner can normally be reached on Monday-Friday 8:00 AM- 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Joseph K. McKane, can be reached at (571) 272-0699. The unofficial fax phone for this group are (571) 273-8300.

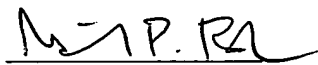
When filing a FAX in Technology Center 1600, please indicate the Header (upper right) "Official" for papers that are to be entered into the file, and " Unofficial" for draft documents and other communications with the PTO that are not for entry into the file of the application. This will expedite processing of your papers.

Communication via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by applicant and should be addressed to [joseph.mckane@uspto.gov]. All Internet e-mail communications will be made of record in the application file. PTO employees will not communicate with applicant via Internet e-mail where sensitive data will be exchanged or where there exists a possibility that sensitive data could be identified unless there is of record an express waiver of the confidentiality requirements under 35 U.S.C. 122 by the applicant. See the Interim Internet Usage Policy published by the Patent and Trademark Office Official Gazette on February 25, 1997 at 1195 OG 89.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is viable through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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